

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

NUMBER: 29528S DATE: May 16, 2006
RESPONSE REQUIRED BY: June 16, 2006

PERMIT MANAGER: Tyson S. Eckerle PHONE: 415-977-8462 Email: Tyson.S.Eckerle@usace.army.mil

1. INTRODUCTION: The East Bay Municipal Utility District (EBMUD), 375 Eleventh Street Oakland, California 94607-4240, ((510)287-0520), through its agent Sycamore Associates, Inc. ((925) 279-0580), has applied for a Department of the Army permit to address sedimentation issues in San Leandro Creek, downstream of the Upper San Leandro Dam (USL Dam) by day-lighting an existing culvert adjacent to the dam spillway; replacing another small, failing culvert, approximately 180 feet downstream of the spillway; repairing a landslide area approximately one mile from the spillway; and removing sediment and vegetation from the stilling basin below the dam spillway. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344).

2. PROPOSED PROJECT:

Project Site: The proposed project is located in a rural area of Alameda County, California, approximately eight miles east of downtown Oakland and five miles north of Castro Valley (37°45'56"; 122°05'28")(Figure 1). Two creeks would be directly impacted by this project: San Leandro Creek, which flows out of the USL Dam; and Miller Creek, which flows into San Leandro Creek below the dam.

Project Purpose and Need: The primary purpose of the project is to restore the spillway and drainage channel areas below the USL Dam to proper flow conditions. Current conditions could lead to

flooding and washout of the dam access road. In the interest of public safety, the California State Department of Water Resources, Division of Dam Safety requires that access to the USL Dam be maintained for inspections and emergency operations.

Project Description: The EBMUD seeks to remove excessive sedimentation and vegetation which has occurred in the concrete lined stilling basin below the USL Dam spillway and within a small portion of San Leandro Creek. In an effort to reduce sedimentation, the Applicant is proposing to day-light 190 linear feet of the existing box culvert within Miller Creek, which should provide adequate capacity for the creek to naturally move sediment through its system (Figure 2). Sediment and vegetation located within and downstream of a 0.62-acre stilling basin area would be removed (Figure 3).

It is believed that the proposed day-lighting of Miller Creek will reduce maintenance needs of this area significantly; however, regular sediment and vegetation removal may be necessary. To reduce temporary impacts that could occur as a result of the on-going maintenance, East Bay Municipal Utility District is proposing to maintain the stilling basin area (the majority of which is concrete or riprap lined) by removing sediment and vegetation within a defined quadrant of the 0.54-acre area on a semi-annual, rotating basis, as shown in Figure 4. The excavation would be done over multiple years using a small excavator; the excavator would drive down

the center of the spillway basin area to access and remove the vegetation and the sediment from one quadrant of the area. A small area immediately downstream and adjacent to the sloped spillway structure may also be cleared of debris to facilitate proper drainage of water from the spillway area.

In addition to the above stated activities, a 5-foot diameter culvert approximately 180 feet downstream of the spillway, would be replaced, and a landslide would be repaired approximately $\frac{3}{4}$ of a mile upstream of the Miller Creek box culvert. Aside from the construction of a temporary crossing over a seasonally dry creek bed, the landslide repair will not affect any waters of the U.S.

Impacts: This project will result in a net loss of material in Corps jurisdiction, as sediment removal is the primary proposed action. However, the project will result in an unquantifiable amount of fill associated with bulldozer driven sediment excavation.

Mitigation: The applicant has proposed to daylight 190 linear feet of Miller Creek to mitigate for the initial removal of sediment and vegetation from the 0.62-acre area described above. Impacts from on-going maintenance of the 0.54-acre stilling basin would be mitigated for by limiting the area of sediment removal to one quadrant per semi-annual removal episode.

3. OTHER STATE AND FEDERAL PERMITS:

Water Quality Certification - Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must first obtain a State water quality certification before a Corps permit may be issued. The applicant has provided the Corps with evidence that he has submitted a valid request for State water quality certification to the San Francisco Bay Regional Water Quality Control Board. No Corps permit will be granted until the applicant obtains the required water quality certification. The Corps may assume a waiver of water quality

certification if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issue that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612 by the close of the comment period of this Public Notice.

4. ENVIRONMENTAL ASSESSMENT: The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations (40 C.F.R. Parts 1500-1508), and the Corps' Regulations (33 C.F.R. Part 230 and Part 325, Appendix B). Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The documents used in the preparation of the Environmental Assessment will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197.

Endangered Species Act of 1973 (ESA): Section 7 of the Endangered Species Act requires formal consultation with the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS) if a Corps permitted project may adversely affect any Federally listed threatened or endangered species or its designated critical habitat. Species and critical habitat currently identified as potentially impacted by the proposed project include federally listed threatened California red-legged frog (*Rana aurora draytoni*) and federally listed threatened Alameda whipsnake (*Masticophis lateralis*

euryxanthus). The Corps initiated consultation for potential impacts to these two species on April 6, 2006.

National Historic Preservation Act of 1966 (NHPA): Based on a review of survey data on file with various City, State and Federal agencies, no historic or archeological resources are known to occur in the project vicinity. If unrecorded resources are discovered during construction of the project, operations will be suspended until the Corps completes consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.

5. EVALUATION OF ALTERNATIVES: Evaluation of the proposed activity's impact will include application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. Section 1344(b)). An evaluation has been made by this office that the proposed project is water dependent.

6. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber

production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

7. CONSIDERATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest in the proposed activity.

8. SUBMISSION OF COMMENTS: Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197. It is the Corps' policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Public Notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose name and address are indicated in the first paragraph of this Public Notice or by contacting

Tyson S. Eckerle of our office at telephone 415-977-8462 or E-mail: Tyson.S.Eckerle@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.

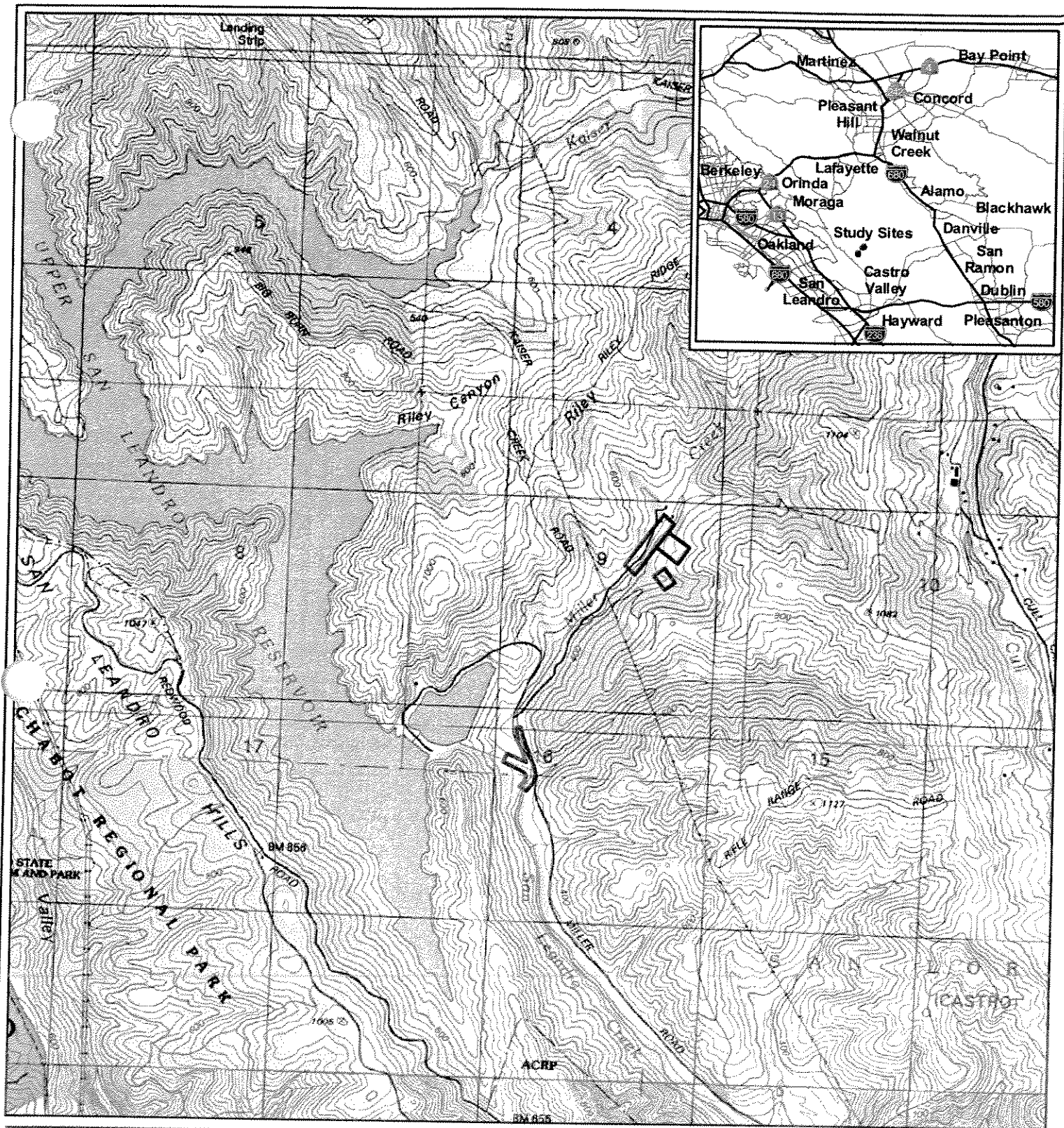
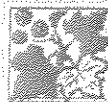


Figure 1
Project Site Locations
East Bay Municipal Utility District
USL Dam and Spillway
Channel Restoration Project

Alameda County, California

(Portions of APN

085-0250-006, 085-0450-001,
 085-0400-002-2, 085-0600-001)



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1:24,000 11/09/05
 1 inch equals 2,000 feet



Legend







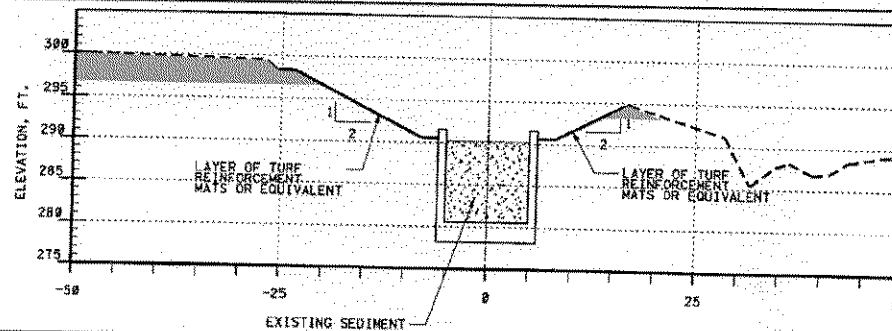
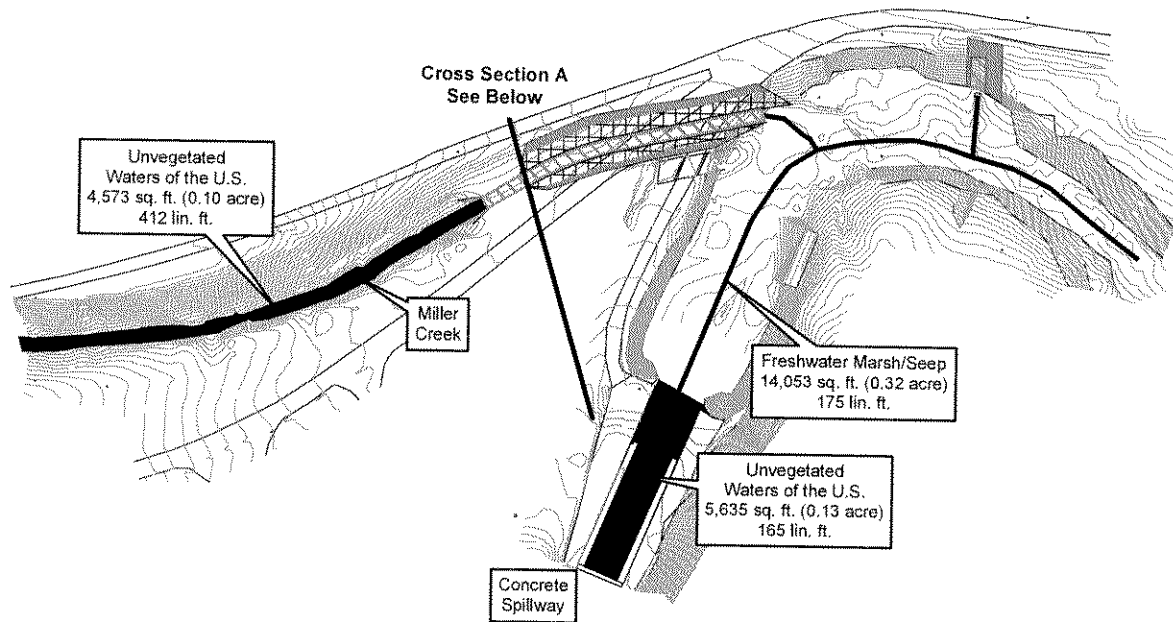
Study Area Boundaries

This document provided for the sole use of EBMUD.
 USGS quadrangles from MapTech Terrain Navigator (2001).
 This document not intended for detailed design work.

Figure 2
Planting Areas and Plant and Seed Palettes for the
USL Dam and Spillway
East Bay Municipal Utility District
USL Dam and Spillway
Channel Restoration Project
 Alameda County, California

Legend

-  Planting Area
-  Culvert to be Removed
-  Area to be Excavated
-  Unvegetated Waters of the U.S.

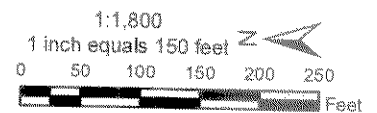


Riparian Shrubs and Trees Planting Palette

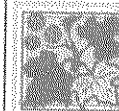
Common Name	Scientific Name	Planting Size	Source
California rose	<i>Rosa californica</i>	liners	commercial sources
blue elderberry	<i>Sambucus mexicana</i>	treepot 4	commercial sources
red willow	<i>Salix laevigata</i>	cuttings	local cutting collection
California buckeye	<i>Aesculus californica</i>	buckeyes	local collection
box elder	<i>Acer negundo</i> var. <i>californicum</i>	treepot 4	commercial source
big-leaf maple	<i>Acer macrophyllum</i>	treepot 4	commercial source
live oak	<i>Quercus agrifolia</i>	acorns	local collection

Riparian Seed Mix

Common Name	Scientific Name
meadow barley	<i>Hordeum brachyantherum</i>
creeping wildrye	<i>Leymus triticoides</i>
purple needle grass	<i>Nasella pulchra</i>
mugwort	<i>Artemisia douglasiana</i>
white yarrow	<i>Achillea millefolium</i>
blue-eyed grass	<i>Sisyrinchium bellum</i>
California figwort	<i>Scrophularia californica</i>



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Figure 3
Temporary and Permanent Impacts
to Jurisdictional Waters
for the USL Dam and Spillway
East Bay Municipal Utility District
USL Dam and Spillway
Channel Restoration Project
 Alameda County, California

Legend

Jurisdictional Features

- Unvegetated Waters of the U.S.
- Freshwater Marsh/Seep
- Central Coast Riparian Scrub

Total USACE Jurisdictional Wetlands and Other Waters of the U.S.
 47,072 square feet (1.07 acres)
 1,356 linear feet

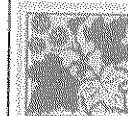
Other Site Features

- Areas to be Cleared
- Ordinary High Water
- Study Area Boundary

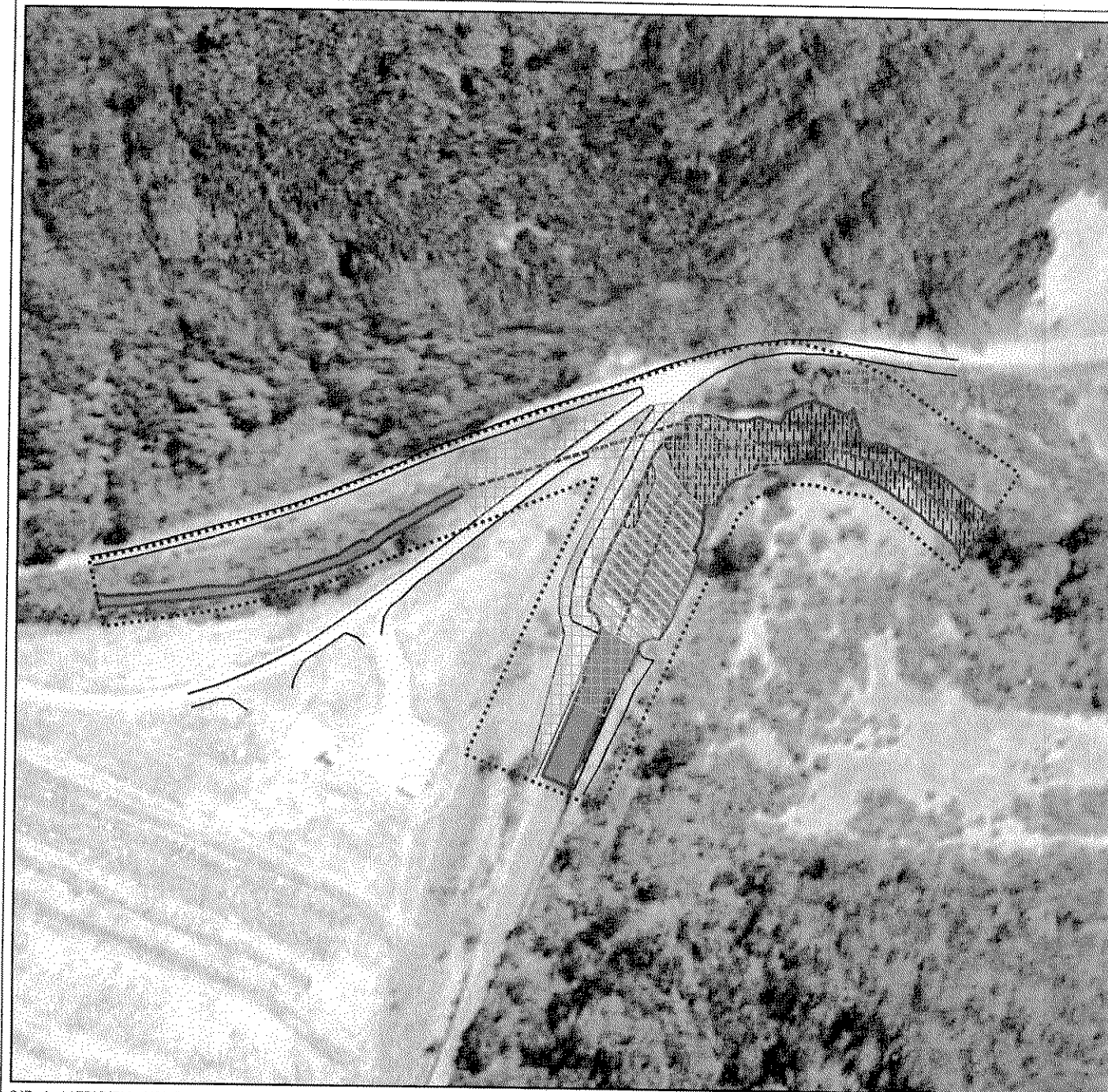
		sq. ft.	acres	lin. ft.
Waters of the U.S.	Impacts	23,506	0.54	408
	Avoided	23,566	0.54	948
Waters of the State	Impacts	27,925	0.64	430



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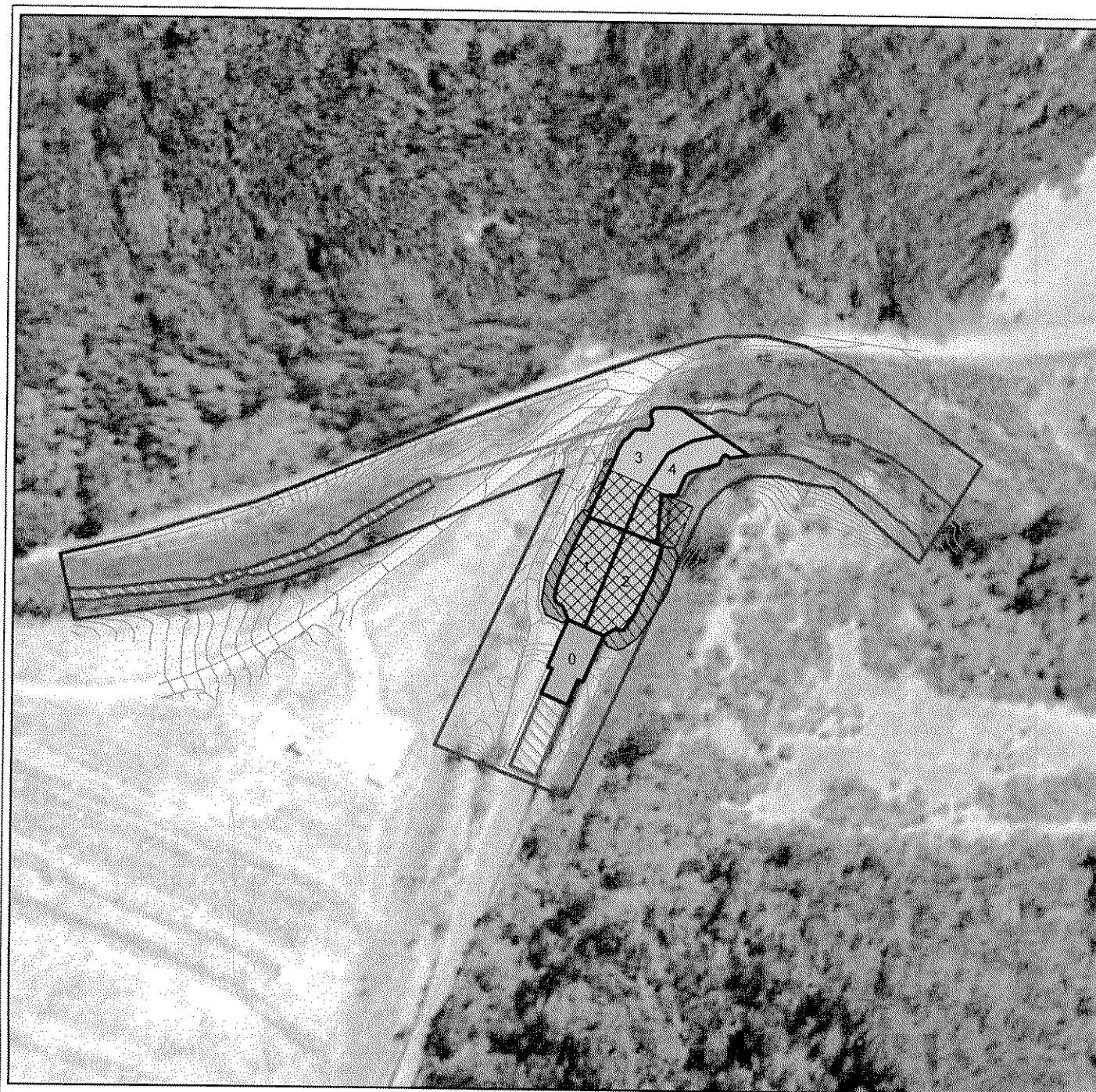









Figure 4

Ongoing Maintenance Impacts
East Bay Municipal Utility District
USL Dam and Spillway
Channel Restoration Project
 Alameda County, California

Legend

-  Maintenance Quadrants 1-4
-  Area 0 - Always Maintained
-  Concrete
-  Riprap
-  Ordinary High Water
-  Unvegetated Waters of the U.S.
-  Study Area Boundary

Waters of the U.S.		sq. ft.	acres	lin. ft.
Total Within Maintenance Area		23,618	0.54	350
Total Within Area 0		3,126	0.07	94
Quadrant 1 + Area 0	Impacts	7,753	0.18	199
	Avoided	15,765	0.36	154
Quadrant 2 + Area 0	Impacts	7,923	0.18	186
	Avoided	15,595	0.36	154
Quadrant 3 + Area 0	Impacts	9,704	0.22	237
	Avoided	13,814	0.32	113
Quadrant 4 + Area 0	Impacts	7,816	0.17	237
	Avoided	16,002	0.37	113

1:1,800
 1 inch equals 150 feet



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